



FISCAL MEMORANDUM

HB 2043 - SB 1997

February 28, 2022

SUMMARY OF BILL AS AMENDED (014291): Adds Tianeptine to the list of Schedule II controlled substances, punishable as a Class A misdemeanor. Eliminates the exceptions for the Class A misdemeanor for a person to knowingly sell, offer for sale, distribute, purchase or possess Kratom.

FISCAL IMPACT OF BILL AS AMENDED:

Increase Local Expenditures – \$4,700/FY22-23 and Subsequent Years*

Assumptions for the bill as amended:

- The National Poison Data System (NPDS) reports a significant increase in tianeptine exposure calls between 2014 and 2017, as follows:
 - 2014: 5
 - 2015: 38
 - 2016: 83
 - 2017: 81
- Based on information located on the Drug Enforcement Agency's (DEA) website, there were 29 reports from state and local forensic laboratories of tianeptine from 2017 to 2018. Further, there have been at least two reported fatalities associated with tianeptine which occurred in Texas.
- It is reasonably assumed the proposed legislation will result in three additional Class A misdemeanor convictions each year.
- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$60.69.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$2,731 (3 convictions x \$60.69 x 15) in FY22-23 and subsequent years.
- Pursuant to Tenn. Code Ann. § 39-17-452(a)(3), it is a Class A misdemeanor offense for a person to knowingly:
 - Sell, or offer for sale, Kratom unless labeled and in its natural form;
 - Distribute, sell, or offer for sale, Kratom to a person under the age of 21 years; or
 - Purchase or possess Kratom if under the age of 21 years.

- The proposed legislation eliminates the exceptions and makes it an offense to sell, offer for sale, distribute, purchase or possess Kratom.
- Based on information provided by the Administrative Office of the Courts, there have been an average of 4.4 Class A misdemeanor convictions in each of the last 5 years for knowingly producing, manufacturing distributing, selling, offering for sale, or possessing any capsule, pill, or other product composed of or containing any amount of any compound of synthetic derivatives or analogues of methcathinone.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 44 convictions (4.4 / 10.0%) per year for synthetic derivatives or analogues of methcathinone Class A misdemeanors.
- However, such convictions include all compounds listed under Tenn. Code Ann. 39-17-452(a)(1)(A)-(C) – (2)(A)-(K). It is reasonably assumed five percent or 2.2 (44 x 5.0%) of such convictions involved Kratom.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$2,003 (2.2 convictions x \$60.69 x 15) in FY22-23 and subsequent years.
- The total recurring mandatory increase in expenditures to local governments is estimated to be \$4,734 (\$2,731 + \$2,003) in FY22-23 and subsequent years.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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